REMARKS

In response to the final Office Action dated May 2, 2005, Assignee respectfully requests reconsideration based on the above claim amendments and the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited references.

The United States Patent and Trademark Office (the "Office") rejected claims 1-2, 7, 10-13, 17-20, 22, and 23 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 5,973,683 to Cragun. Claims 24-25 and 27-28 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,675,384 to Block. Claim 3 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun* in view of U.S. Patent 5,481,296 to Cragun. Claim 6 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun*. Claims 4-5, 8-9, 14-16, and 21 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun* in view of *Block*. Claim 26 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Block* in view of *Cragun*. The Assignee shows, however, that the amended claims are neither obviated nor anticipated by the cited documents. The Assignee thus respectively submits that the pending claims distinguish over the cited documents.

Rejection of Claims 1-2, 7, 10-13, 17-20, 22, and 23 under § 102 (e)

The United States Patent and Trademark Office (the "Office") rejected claims 1-2, 7, 10-13, 17-20, 22, and 23 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 5,973,683 to Cragun. A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the pending claims distinguish over *Cragun*. The reference to *Cragun* does not anticipate the claims, so the Assignee respectfully requests removal of the § 102 (e) rejection.

Independent claims 1, 11, and 18 are not anticipated by *Cragun*. Each of these claims recites features for receiving both programming and program control data from a service provider. The program control data is associated with a portion of the program. The program control data comprises control instructions to alter the program according to a ratings attribute. Support for such features may be found at least at page 3, lines 12-15, at page 4, lines 9-27, at page 6, lines 16-19, and at page 9, lines 1-5. Independent claim 1 is reproduced below.

1. (Currently Amended) A system for controlling and managing presentation to viewers of television, cable, satellite, Internet, broadcast or other programming content, the system comprising:

   a. a receiver adapted to receive from a service provider a signal corresponding to a program and program control data associated with at least a first portion of the program, the program control data comprising control instructions to alter the program according to a ratings attribute ~~(1) content data, (2) control data, or (3) both~~;

   b. a viewer interface adapted to receive information related to program presentation preferences of a viewer; and

   c. a processor adapted (1) to modify the content of at least the first portion of the program based on the program control data and program presentation preferences and (2) to output the modified first portion for presentation on a display device with the remainder of the program.

Independent claims 11 and 18 include similar features.

Cragun does not anticipate such features. *Cragun* describes a computer that receives or downloads program ratings (or "content classification values"). The computer may then compare the program ratings to user thresholds and control a receiver or TV. While the computer of *Cragun* provides control signals to either the receiver or the TV (*see, e.g.*, U.S. Patent 5,973,683 to Cragun at column 9, lines 49-50), no where does *Cragun* describe receiving "*from a service provider a signal corresponding to a program and program control data associated with at least a first portion of the program, the program control data comprising control instructions to alter the program according to a ratings attribute*." That is, the service provider provides both the

program and the program control data. The patent to *Cragun*, in contradistinction, receives control signals from the computer, not the service provider of the program. *Cragun*, then, cannot anticipate independent claims 1, 11, and 18, and Examiner Brown is respectfully requested to remove the rejection.

Moreover, *Cragun* fails to anticipate dependent claim 17. This dependent claim recites features for determining "*how often portions of the program will be modified, and if a number of modifications exceeds a threshold percentage of the program, then i) the program is entirely blocked and ii) a user is permitted to change the ratings attribute.*" No where does *Cragun* disclose any determination for modifications that exceed a threshold percentage, and no where does *Cragun* block programs that exceed this threshold. *Cragun*, then, cannot anticipate claim 17.

Rejection of Claim 24-25 & 27-28 under § 102 (e)

Claims 24-25 and 27-28 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,675,384 to Block. Independent claim 24, however, includes features not taught or suggested by *Block*. Claim 24 recites "*determining whether to display a particular program by comparing the ratings attribute to the user's control settings and a threshold.*" Claim 24 further recites "*determining how often portions of the programming will be modified, and if a number of modifications exceeds a threshold percentage of a program, then i) the program is entirely blocked and ii) a user is permitted to change the ratings attribute.*" Support for such features may be found at least page 17, lines 19-end. The patent to *Block* entirely fails to contemplate such features.

Claims 25 and 27-28 depend from independent claim 24. These claims, then, incorporate the same distinguishing features. Moreover, claims 27 and 28 describe tabulating viewer votes to formulate the program control data. Support for such features may be found at least at page 9, lines 6-20 of this pending application. *Block*, then, cannot anticipate claims 24, 25, and 27-28, so Examiner Brown is respectfully requested to remove the rejection.

Rejection of Claims 3 and 6 under § 103 (a)

Claim 3 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun* in view of U.S. Patent 5,481,296 to Cragun. Claim 6 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun*. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, the patents to *Cragun*, whether combined or singularly, fail to teach or suggest all the features recited in claims 3 and 6.

Claims 3 and 6 are not obvious. Claims 3 and 6 depend from claim 1 and thus incorporate the same distinguishing features. No where, for example, do the patents to *Cragun* describe receiving "*from a service provider a signal corresponding to a program and program control data associated with at least a first portion of the program, the program control data comprising control instructions to alter the program according to a ratings attribute.*" Because the patents to *Cragun* fail to teach or suggest such features, one of ordinary skill in the art would not think claims 3 and 6 obvious. The Assignee thus respectfully requests that Examiner Brown remove the 35 U.S.C. § 103 (a) rejection of claims 3 and 6.

Rejection of Claims 4-5, 8-9, 14-16, and 21 under § 103 (a)

Claims 4-5, 8-9, 14-16, and 21 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun* in view of *Block*. Claims 4-5 and 8-9, however, depend from independent claim 1 and thus incorporate the same distinguishing features. Claims 14-16, likewise, depend from independent claim 11, and claim 21 depends from independent claim 18. All these claims thus receive *a program and program control comprising control instructions to alter the program according to a ratings attribute.* Because the proposed combination of

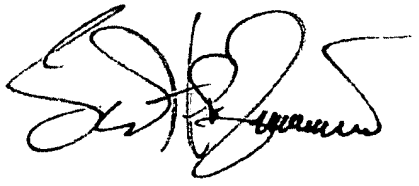
Cragun and *Block* fails to teach or suggest such features, one of ordinary skill in the art would not think the claims obvious. The Assignee thus respectfully requests that Examiner Brown remove the 35 U.S.C. § 103 (a) rejections.

Rejection of Claim 26 under § 103 (a)

Claim 26 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Block* in view of *Cragun*. Claim 26, however, is not obvious. Claim 26 depends from claim 24 and thus incorporates the same distinguishing features. No where, for example, do the patents to *Block* and *Cragun* describe "*determining whether to display a particular program by comparing the ratings attribute to the user's control settings and a threshold.*" Claim 24 further recites "*determining how often portions of the programming will be modified, and if a number of modifications exceeds a threshold percentage of a program, then i) the program is entirely blocked and ii) a user is permitted to change the ratings attribute.*" Because the patents to *Block* and *Cragun* fail to teach or suggest such features, one of ordinary skill in the art would not think claims26 obvious. The Assignee thus respectfully requests that Examiner Brown remove the 35 U.S.C. § 103 (a) rejection of claim 26.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or scott@scottzimmerman.com.

Respectfully submitted,



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